

SENATE No. 862

The Commonwealth of Massachusetts

PRESENTED BY:

Moore, Richard (SEN)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act Relative to the Labeling of Certain Food Products

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Moore, Richard (SEN)	Worcester and Norfolk
Benjamin Swan	11th Hampden
Susan C. Fargo	Third Middlesex

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01290 OF 2007-2008.]

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN ACT RELATIVE TO THE LABELING OF CERTAIN FOOD PRODUCTS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. This Act may be cited as the `Menu Education and Labeling (MEAL) Act
2 of 2009.

3 SECTION 2. FINDINGS.

4 (a) Research continues to reveal the strong link between diet and health, and that diet-related
5 diseases start early in life.

6 (b) Increased caloric intake is a key factor contributing to the alarming increase in obesity in the
7 United States. According to the Centers for Disease Control and Prevention, two-thirds of
8 American adults are overweight or obese, and the rates of obesity have tripled in children and
9 teens since 1980. Obesity increases the risk of diabetes, heart disease, stroke, and other health
10 problems. Each year obesity costs families, businesses, and governments \$117 billion.

11 (c) Excess saturated fat intake is a major risk factor for heart disease, which is the leading cause
12 of death for men and women in the United States. Heart disease is also a leading cause of

13 disability among working adults and its impact on the U.S. economy is significant, estimated in
14 2005 to cost \$393.5 billion in health care expenditures and lost productivity.

15 (d) Increased sodium intake is associated with increased risk of high blood pressure, a condition
16 that can lead to cardiovascular disease, especially stroke. The proportion of Americans with high
17 blood pressure is 45 percent at age 50, 60 percent at age 60, and over 70 percent at age 70.

18 (e) Over the past two decades, there has been a significant increase in the number of meals
19 prepared and/or eaten outside the home, with an estimated one-third of calories and almost half
20 (46 percent) of total food dollars being spent on food purchased from and/or eaten at restaurants
21 and other food-service establishments.

22 (f) Studies link eating out with obesity and higher caloric intakes. Foods that people eat from
23 restaurants and other food-service establishments are generally higher in calories and saturated
24 fat and lower in nutrients, such as calcium and fiber, than home-prepared foods.

25 (g) While nutrition labeling is currently required on most packaged foods, such information is
26 required only for restaurant foods for which nutrient content or health claims are made.

27 (h) Three-quarters of American adults report using food labels on packaged foods, which are
28 required by the Nutrition Labeling and Education Act of 1990. Using food labels is associated
29 with eating more healthful diets, and approximately half (48 percent) of people report that the
30 nutrition information on food labels has caused them to change their minds about buying a food
31 product. Research shows that people make more healthful choices when restaurants provide
32 point-of-purchase nutrition information.

33 (i) It is difficult for consumers to limit their intake of calories at restaurants, given the limited
34 availability of nutrition information, as well as the popular practice by many restaurants of
35 providing foods in larger-than-standard servings and ‘super-sized’ portions. Studies show that
36 people eat greater quantities of food when they are served more.

37 SECTION 3.

38 SECTION 3. Chapter 94 of the General Laws, as appearing in the 2006 Official Edition, is
39 hereby amended by inserting the following new section:

40 Section 306A. Nutritional Labeling of Menu Items

41 (a) A restaurant or food establishment shall provide nutritional information for all standard menu
42 items listed on the menu, including but not limited to the total number of:

43 (1) calories;

44 (2) grams of saturated fat plus trans fat;

45 (3) grams of carbohydrates; and

46 (4) milligrams of sodium

47 per serving, as usually prepared and offered for sale.

48 (b) Restaurants that use a standard menu shall provide such information next to each item on the
49 menu in a size and typeface similar to other information about each menu item.

50 (c) A restaurant is exempt if it has fewer than ten locations nationally, doing business under the
51 same trade name, regardless of the type of ownership of the individual restaurant locations, and
52 offering predominantly the same types of meals, foods or menus.

53 (d) If the restaurant or similar retail food establishment uses only a menu board, it may limit the
54 nutritional information listed on the menu board to the total number of calories per serving per
55 item in a size and typeface similar to other information about the item; provided, that the
56 additional nutrition information be made available to customers in writing upon request.

57 (e) If a restaurant or similar retail food establishment uses a drive through menu sign, it may
58 limit the nutritional information list on the drive through menu sign to the total number of
59 calories per serving per item in a size and typeface similar to other information about the item;
60 provided, that the additional nutrition information be made available to customers in writing
61 upon request.

62 (f) If a restaurant or similar retail food establishment provides a salad bar, buffet line, cafeteria
63 service, or similar self-serve arrangement, it may limit the nutritional information provided for
64 items offered in such an arrangement to the total number of calories per standard serving per
65 item next to where the item is offered in a size and typeface that is prominent and legible from
66 where customers are choosing those items; provided, that the additional nutrition information
67 about the item shall be made available to customers in writing upon request.

68 (g) "Standard menu items" do not include (i) temporary menu items, such as specials that appear
69 on the menu for less than 30 days per year; and (ii) condiments and other items placed on the
70 table or counter for general use without charge.

71 SECTION 4. Nothing in this Act precludes restaurants and similar retail food establishments
72 from providing additional nutrition information voluntarily.

73 SECTION 5. (a) For the purposes of this Act, restaurants and similar retail food establishments
74 shall obtain the nutrient analysis required by this Act using analytic methods and express nutrient
75 content in a manner consistent with the Uniform Food, Drug, and Cosmetic Act and
76 implementing regulations. A label is out of compliance with the Act if the label declaration is
77 more than 20% lower than nutrient analysis shows as the average content of a representative
78 sample of the menu item.

79 (b) For menu items that come in different flavors and varieties but that are listed as a single menu
80 item, such as soft drinks, ice cream, pizza, and doughnuts, the median value for calories or other
81 nutrients for all flavors or varieties shall be listed on menus and menu boards if the calorie or
82 other nutrient values for all flavors or varieties are within 20% of the median. If the calories or
83 other nutrient values are not within 20% of the median, then the range for all the flavors or
84 varieties of that menu item shall be listed from the lowest to the highest value. If a menu item
85 that comes in different varieties is on display with a name placard or similar signage, the calories
86 per serving as-offered-for-sale shall be listed on the placard along with the name. If a menu item
87 is not on display, nutrition information for each individual flavor or variety shall be provided by
88 means of an in-store brochure, booklet, kiosk, or other device that is easily accessible to
89 customers. Signage should alert customers to the availability of such information.

90 SECTION 6. (a) The Department of Public Health shall issue proposed regulations to implement
91 the Act within 12 months after the date of the enactment of this Act. Such regulations shall
92 require the required information to be conveyed to the public in a manner that enables the public

93 to readily observe and comprehend such information and to understand its relative significance
94 in the context of a total daily diet. The implementing regulations will take effect 6 months after
95 they are finalized. If the Department of Health does not promulgate final regulations within 24
96 months after the date of the enactment of this Act, the proposed regulations shall be considered
97 as the final regulations.

98 (1) The bottom of each page of a menu must include, in a clear and conspicuous manner, the
99 following statement: “Recommended limits for a 2,000 calorie daily diet are 20 g of saturated fat
100 and 2,300 mg of sodium. Saturated fat numbers include trans fat.” If no items on the menu
101 contain more than 0.5 grams of trans fat from partially hydrogenated oil per serving, the
102 statement “saturated fat numbers include trans fat” can be omitted.

103 (2) When used by chain restaurants, menu boards must include, in a clear and conspicuous
104 manner, the following statement: “A 2,000 calorie diet is used as the basis for general nutrition
105 advice; individual calorie needs, however, may vary.”

106 SECTION 7. The Commissioner or his duly authorized agents or employees who inspect
107 restaurants and food establishments shall be required to determine that the nutrition information
108 required under this section is listed on the menu or menu board and that any additional required
109 information is available for customers upon request. Such inspectors shall not be required to
110 verify the accuracy of the nutritional listings. The Department of Public Health may request that
111 franchisors or corporate owners of chain restaurants and food establishments provide
112 documentation of the accuracy of the nutritional information.

113 SECTION 8. Nothing in this legislation shall prohibit local regulation, provided that such local
114 regulation shall incorporate the requirements of this Act.